

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:03CV325

STEPHAN D. BROOKS,

Petitioner,

v.

STATE OF NORTH CAROLINA,

Respondent.

ORDER

THIS MATTER is before the Court on Petitioner’s Motion “Re: Criminal Contempt in Violation of 18 U.S.C. § 401, For Misleading, Incomplete, False, And Dishonest Statements Made to Court . . . ” (Doc. No. 33) filed on March 10, 2011.¹ By way of relief, Petitioner asks the Court to remedy this matter or alternatively, he asks that the State dismiss the case against him.²

This Court dismissed Petitioner’s case on April 28, 2005. (Doc. No. 26). Petitioner appealed this Court’s Order to the Fourth Circuit Court of Appeals and on October 19, 2005, the Fourth Circuit denied a certificate of appealability and dismissed Petitioner’s appeal. Brooks v. Hunt, 145 F. App’x 830 (4th Cir. October 19, 2005) (unpublished). On November 28, 2005, the

¹ Petitioner’s motion is dated February 14, 2011.

² It appears that Petitioner is continuing to challenge his underlying state conviction. To the extent that is the case, the Court notes that “[b]efore a second or successive application [for habeas corpus] is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244 (b)(3)(A). The Court notes that Petitioner has not certified his motion with the Fourth Circuit Court of Appeals.

Fourth Circuit denied Petitioner's petition for rehearing and rehearing en banc and the mandate issued on December 6, 2005. (Doc. Nos. 31 and 32). Petitioner did not file a petition for writ of certiorari in the United States Supreme Court.

More than five years have elapsed since the Fourth Circuit dismissed Petitioner appeal and denied his petition for rehearing and Petitioner now asks this Court to find that the Assistant Attorney General was in contempt in violation of 18 U.S.C. § 401 based on misleading statements made in connection with Petitioner's habeas case. Petitioner has had all the review to which he is entitled with respect to his civil habeas petition and his case is closed. Petitioner's motion regarding criminal contempt in connection with his civil habeas case is denied.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Petitioner's motion regarding criminal contempt (Doc. No. 33) is **DENIED**.

SO ORDERED.

Signed: March 23, 2011

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

